No. 83-2148

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In the Supreme Court of the United States

OCTOBER TERM, 1984

STATE OF OREGON, DEPARTMENT OF FISH AND WOLDLIFE, et al.,

Petitioners,

v.

KLAMATH INDIAN TRIBE,

Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED JUNE 25, 1983
CERTIORARI GRANTED OCTOBER 9, 1984

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The following opinions and treaties have been omitted in printing this appendix, because they appear on the following pages of the printed Petition for Writ of Certiorari:

Opinion of the United States Court of Appeals for the Ninth Circuit, dated January 6, 1984 ..... App-1

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CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

Mar. 15, 1982—Plaintiff's Complaint for Declaratory and Injunctive Relief filed in the United States District Court for the District of Oregon.

Apr. 22, 1982—Defendants' Answer filed in the United States District Court for the District of Oregon.

Sept. 8, 1982—Parties' Stipulated Facts on Cross Motions for Summary Judgment filed in the United States District Court for the District of Oregon.

Sept. 8, 1982—Plaintiff's Motion for Summary Judgment filed in the United States District Court for the District of Oregon.

Sept. 9, 1982—Defendants' Motion for Summary Judgment filed in the United States District Court for the District of Oregon.

Jan. 25, 1983—Judgment of the United States District Court for the District of Oregon.

June 25, 1984—Defendants' Petition for Writ of Certiorari filed.

Oct. 9, 1984—Certiorari granted.

PLAINTIFF'S COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

[Filed March 15, 1982]

KLAMATH INDIAN TRIBE,	)	
	)	
Plaintiff,	)	Civil Action No. 82-367
	)	
v.	)	COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
THE OREGON DEPARTMENT OF FISH AND WILDLIFE; JOHN DONALDSON, individually and as Director of Oregon Department of Fish and Wildlife; THE FISH AND WILDLIFE COMMISSION: DON BARTH, JOHN BOYER, KENNETH KLARQUIST, R. GENE MORRIS, HERBERT LUNDY, FRED A. PHILLIPS, II, JACK STEIWER, each individually and as a member of the Oregon Fish and Wildlife Commission; JOHN C. WILLIAMS, individually and as Superintendent, Oregon State Police; MAJOR STERLING NORTON, individually and as Head of Fish and Game Division of the Oregon State Police,	)	
Defendants.	)	

NATURE OF THE ACTION

1. This is an action for injunctive and declaratory relief authorized by Title 42 U.S.C. § 1983 to redress the deprivation under color of state law of rights, privileges and immunities secured to plaintiff by the Constitution of the United States and the treaties and laws thereunder. This action is brought by the Klamath Indian Tribe seeking to declare the rights of the plaintiff to federally secured treaty trapping, hunting and fishing rights within the boundaries of their ancestral reservation. These rights were secured to plaintiff by the Constitution, laws and treaties of the United States. Plaintiff asks for a declaration of those rights pursuant to 28 U.S.C. §§ 2201 and 2202, and for an injunction against state interference with those rights.

JURISDICTION

2. Jurisdiction is conferred upon this court by Title 28 U.S.C. § 1362 which provides for original jurisdiction of district courts in civil actions brought by an Indian Tribe wherein the matter in controversy arises under the Constitution, laws or treaties of the United States. Jurisdiction is also conferred upon this court by Title 28 U.S.C. § 1343(3) which provides for original jurisdiction of this court in suits authorized under Title 42 U.S.C. § 1983. Furthermore, jurisdiction is conferred by Title 28 U.S.C. § 1331 which provides for original jurisdiction of this court in suits arising under the Constitution, laws or treaties of the United States wherein the matter in controversy exceeds the sum or value of $10,000 exclusive of interests and costs. The amount in controversy exceeds the sum of $10,000 exclusive of interests and costs.

PLAINTIFF

3. Plaintiff Klamath Indian Tribe is the Tribe that was signatory to the Treaty of October 14, 1864, between the Klamath, Modoc and Yahooskin Band of Snake Indians of Oregon and the United States. The Klamath Indian Tribe possesses the sovereign authority to regulate the exercise of treaty hunting, fishing and trapping rights by tribal members on the lands of the former Klamath Indian Reservation within the boundaries established by the Treaty of October 14, 1864.

DEFENDANTS

4. The defendants are charged in various aspects under the statutes of the State of Oregon with the enactment, administration, enforcement, operation and execution of statutes, regulations, rules, policies, and procedures relating to hunting, fishing and trapping.

FACTUAL ALLEGATIONS

5. Plaintiff brings this action as owner of the treaty hunting, fishing and trapping rights, privileges and and [*sic*] immunities within the area of their aboriginal domain reserved to them by the Treaty of October 14, 1864 between the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians and the United States; Ratified July 2, 1866, proclaimed February 17, 1870; 16 Stat. 707 (hereinafter referred to as "the Treaty", a copy of which is attached hereto as Exhibit A).

6. Article I of the Treaty provided that "the exclusive right to taking fish in the streams and lakes, included in said reservation . . . is hereby secured to the Indians

aforesaid." This treaty right includes hunting and fishing rights.

7. By Act of July 2, 1864, 13 Stat. 355, ch. 213, Congress granted to the State of Oregon odd-numbered sections of land to build a military road, three wide on each side of the proposed road. Oregon accepted the grant and assigned it to the California and Oregon Land Company. Congress recognized this assignment by Act of June 18, 1874, 18 Stat. 80, ch. 305. Patents were issued to the State and to the road company for 420,240.67 acres of land, title of which was later acquired by the California and Oregon Road Company. Of these lands so acquired by the California and Oregon Land Company, 111,385 acres were within the boundaries of the Klamath Indian Reservation as established by the Treaty.

8. By Act of June 21, 1906, 34 Stat. 367, Congress authorized the Secretary of the Interior to exchange 87,000 acres of unallotted lands within the reservation for the 111,385 acres of allotted lands which were earlier conveyed by mistake. This transfer took place on August 22, 1906, without the knowledge or consent of plaintiff and without payment of compensation.

9. By agreement entered into on June 17, 1901, and ratified by Congress in the Act of June 21, 1906, 34 Stat. 367, plaintiff ceded to the United States 621,824 acres of land, more or less, lying between the reservation boundaries established by the Treaty of October 14, 1864, and the boundary lines established by the erroneous 1871 Mercer survey, later corrected by Thiel and approved by the General Land Office

in 1880. (The lands ceded by the Tribe in the Agreement of June 17, 1901, ratified by Congress in the Act of June 21, 1906, 34 Stat. 367, and the unallotted lands exchanged by the Secretary of the Interior pursuant to the authority granted in the same Act of June 21, 1906, 34 Stat. 367, are hereinafter collectively referred to as "the ceded lands.")

10. Article IV of the Agreement of June 17, 1901, as ratified by Congress in the Act of June 21, 1906 (34 Stat. 367) provides that "[i]t is understood that nothing in this agreement shall be construed to deprive the . . . Indians . . . of any benefits to which they are entitled under existing treaties, not inconsistent with the provisions of this agreement." (A copy of the Act of June 21, 1906 is attached hereto as Exhibit B.)

11. Plaintiff claims rights under the Treaty of October 14, 1864, to hunt, fish and trap on the ceded lands.

12. Since time immemorial, plaintiff's members and their ancestors have continually resided, fished and hunted in accordance with tribal law and custom within the boundaries of the Klamath Indian Reservation lands as established by the Treaty of October 14, 1864. Fish and game taken from the woods and streams of the ancestral reservation is a major source of diet and subsistence and plays an important role in plaintiff's traditional culture and religion.

13. Plaintiff's hunting, fishing and trapping rights are being interfered with and violated by defendant's practice and policies of enforcing Oregon Fish and Game laws and regulations against plaintiff's members on the ceded lands. Defendant's actions in enforcing these Oregon Fish and Game laws and regulations are in excess of their statutory

jurisdiction and authority, in contravention of the rights of plaintiff's members under the Constitution, treaties and laws of the United States.

14. An actual controversy exists between plaintiff and defendants concerning the power of the defendants to enforce Oregon State laws regulating hunting and fishing, as to plaintiff's members on the ceded lands. Defendants assert their power to enforce laws relating to hunting and fishing against plaintiff's members on the ceded lands, and plaintiff denies existence of that power.

15. Unless this court enters a declaratory judgment setting forth the rights of the parties, defendants will, in violation of federal law, continue to enforce Oregon hunting and fishing laws to plaintiff's members on the ceded lands to plaintiff's great and irreparable injury for which it has no plain, speedy or adequate remedy at law.

CLAIM FOR RELIEF

16. Defendant's acts constitute an unlawful interference with and deprivation of important treaty property rights of plaintiff under color of state law in violation of plaintiff's rights, privileges and immunities secured by the Constitution of the United States and the treaties and laws thereunder.

NEED FOR RELIEF

17. Plaintiff's members currently exercise their treaty fishing, hunting, and trapping rights on the ceded lands within the boundaries of the ancestral Klamath Indian Reservation and in doing so run a very substantial risk of suffering irreparable injury, loss and damage resulting from being

unlawfully regulated, interfered with, arrested and penalized as a result of defendants' policies unless this court grants injunctive relief.

18. Defendants will suffer no substantial harm, inconvenience, or injury as a result of plaintiff's securing extraordinary relief.

WHEREFORE, plaintiff respectfully prays that this court:

1. Assume jurisdiction of this case;

2. Enter preliminary and permanent orders enjoining the defendants from continuing policies which result in interference with the rights of plaintiff's members to exercise their federal treaty and federal statutory rights with respect to fishing, hunting and trapping on the ceded lands within the boundaries of their ancrestral [*sic*] reservation;

3. Order that a declaratory judgment be entered pursuant to Title 28 U.S.C. §§ 2201, 2202, and Rule 57 of the Federal Rules of Civil Procedure declaring that plaintiff's members have the right, privilege and immunity afforded them under the Treaty of October 14, 1864, 16 Stat. 707, between the Klamath Indian Tribe and the United States to hunt, trap and fish on the ceded lands within the boundaries of their ancestral Klamath Indian Reservation free of Oregon State Game and Fish regulation; and

4. Order that such other and further relief be granted as this court deem proper and just.

DATED this 15th day of March, 1982.

[Signature omitted in printing]

DEFENDANTS' ANSWER

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

[Filed April 22, 1982]

[Title of case omitted in printing]

Defendants answer plaintiff's Complaint as follows:

I

Answering paragraphs 1 and 2, defendants challenge that this Court has jurisdiction under 42 USC § 1983 and 28 USC § 1362.

II

Answering paragraphs 3 and 5, defendants deny that plaintiff possesses the authority therein alleged beyond the boundaries of the Klamath Indian Reservation as it existed at the time of termination in 1954.

III

Answering paragraph 8, plaintiff denies that the transfer therein alleged took place without the knowledge or consent of plaintiff and without payment of compensation.

IV

Answering paragraph 12, defendants allege that they are without information or belief as to whether, and if so, the extent to which plaintiff's members have continually resided, fished and hunted in accordance with tribal law and custom beyond the boundaries of the Klamath Indian Reservation as it existed at the time of termination in 1954.

V

Answering paragraph 13, defendants admit they enforce Oregon fish and game laws and regulations upon the lands described as ceded lands. Except as so expressly admitted, defendants deny the allegations of said paragraph.

VI

Defendants deny the allegations of paragraphs 16, 17 and 18.

WHEREFORE, defendants pray that plaintiffs be denied the relief prayed for herein.

[Signatures and certification omitted in printing]

PLAINTIFF'S STIPULATED FACTS ON CROSS MOTIONS FOR SUMMARY JUDGMENT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

[Filed September 8, 1982]

A. *TREATY*

1. By the Treaty of October 4, 1864, 16 Stat. 707, the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians ceded approximately 20 million acres of aboriginal lands in exchange for an approximately 1.9 million acre reservation (Exhibit A). The Tribe's exclusive hunting, fishing and trapping rights on reservation land were recognized and confirmed by this treaty. The treaty in relevant part provided:

> [T]he following tract . . . shall be set apart as a residence for said Indians [and] held and regarded as an Indian reservation . . . . [T]he exclusive right of taking fish in the streams and lakes, included in the reservation . . . is hereby secured to the Indians.

B. *Cession of Excluded Lands*

2. In 1871, government surveyor Mercer surveyed the reservation's exterior boundaries. Mercer's survey erroneously excluded much land from the boundaries of the reservation because he ignored natural boundaries where they did not conform to township subdivision surveys. Sen. R.No. 62, 53rd Cong. 3d Session (1895) (Exhibit B).

3. In 1888, William Thiel resurveyed the reservation to correct the errors made by Mercer. Thiel's survey also excluded much land from the boundaries of the reservation.

4. Following years of tribal complaints beginning shortly after the 1871 survey, Congress in 1896, authorized the appointment of a commission to determine the number of acres excluded by Thiel's survey and the value thereof. Act of June 10, 1896, 29 Stat. 321. Sen. Rep. No. 129, Cong. 2d Session (1894) (Exhibit C).

5. The Klamath Boundary Commission, in a report dated December 18, 1896, determined that 617,000 acres had been erroneously excluded at a value of 86.36 cents per acre, or $533,270.00. Klamath Boundary Commission Report, S.Rep. No. 93, 54th Cong., 2d Sess. (1897). (Exhibit D).

6. The Boundary Commission arrived at the value of 86.36 cents per acre by examining the character of the land itself. The Boundary Commission assessed such factors as soil quality; amount and quantity of meadow and grazing lands; area of volcanic rock formations; extent of mountainous and rocky areas; and amount of value of timber on the land. The Boundary Commission did not take the value of the Tribe's hunting, fishing and trapping rights into account when arriving at its valuation of the land. *Id.*

7. By Act of July 1, 1898, 30 Stat. 571, Congress directed the Secretary of the Interior to resurvey the exterior boundaries of the reservation and negotiate with the Klamath for cession of the excluded lands.

8. The Secretary appointed Inspector McConnell to carry out the provisions of the Act of July 1, 1898, and on January 2, 1899, McConnell submitted his report together with an agreement with the Tribe for cession of the excluded lands. The

number of acres ceded, however, was to be finally determined by a resurvey of the reservation as provided in The Act of July 1, 1898. House Doc. No. 156, 56 Cong., 2d Sess. 3 (Dec. 8, 1900) (Exhibit E).

9. The Bureau of Indian Affairs was dissatisfied with McConnell's report and agreement and, in 1900, Inspector James McLaughlin was appointed to renegotiate an agreement with the Klamath Indians. *Id.*

10. On May 7, 1900, the Commissioner of the General Land Office advised the BIA that he had accepted a survey of the reservation boundary that shows 621,824 acres had been excluded from the reservation by the erroneous surveys. *Id.*

11. Inspector McLaughlin entered into an agreement with the Klamaths on October 24, 1900, which agreement provided for the cession of the excluded lands in return for payment by the United States at a rate of 86.36 cents per acre. Senate Report No. 198, 59th Cong. 1st Sess. 8, 9 (1906) (Exhibit F).

12. On June 17, 1901, Inspector McLaughlin negotiated another agreement with the Klamath Tribe. This was necessitated by the fact that McLaughlin's first agreement mistakenly recited the 1871 survey rather than the 1888 survey. McLaughlin's second agreement was identical to his first with the exception of the corrected survey references. *Id.*

13. This agreement was ratified by the June 21, 1906 Act of Congress, 34 Stat. 367 (Exhibit G).

14. Virtually all the land ceded by the Tribe was immediately closed to entry and placed in either national forests or parks. On September 28, 1893, an executive order was issued

establishing the Cascade Forest Reserve out of the western portion of the excluded lands. 28 Stat. 1893.

15. By Act of May 22, 1902, 32 Stat. 202, Crater Lake National Park was established. It included most of the lands in the western tract.

16. On July 31, 1903, withdrawals were made of most of the remaining sections in the western tract and large portions of the eastern tract for Warner Mountain Forest Reserve. *Klamath and Modoc Tribes etc., v. United States*, 20 Ind. Cl. Comm. 522, 532 (Docket No. 100-A, Decided May 14, 1969) (Exhibit H).

17. The Warner Mountain Forest Reserve was a temporary solution and varicus of the eastern tract lands were restored to the public entry on January 5, 1905. *Id.*

18. Goose Lake Forest Reserve was established on August 21, 1906, also out of the eastern tract. 34 Stat. 3226.

19. On May 14, 1969, the Indian Claims Commission awarded the Tribe $4,152,992.80 to make up for the unconscionable consideration paid the Tribe by the United States for the excluded lands. In arriving at this value, the Commission examined the value of grazing and timber harvesting on the land sold. The Commission did not take the Tribe's hunting, fishing and trapping rights into consideration in making its assessment. *Klamath and Modoc Tribes etc. v. United States*, *supra* at 543.

20. Members of the Tribe have continued to hunt, fish and trap on the excluded lands from the time of their cession to the present without regard for state laws or regulations.

21. Before and after the 1906 cession, the State of Oregon generally asserted jurisdiction over hunting, fishing, and trapping by Indians of the Klamath Reservation when outside the boundaries of the Reservation. The Department of Interior and the BIA acknowledged State jurisdiction outside the reservation boundaries. (Exhibits J&L).

22. The parties to this action are unaware of any assertion by the State or denial by the Tribe of state jurisdiction over Indian hunting and fishing with specific regard to the lands of the 1901 Cession Agreement.

C. *California and Oregon Lands (C & O Lands)*

23. By Act of July 2, 1864, 13 Stat. 355, Congress granted to Oregon odd-numbered sections of land to aid in the construction of a military wagon road. The Act provided that no grants be made of lands previously reserved to the United States.

24. On October 24, 1864, Oregon transferred to the Oregon Central Military Road Company all rights it had under the Act of July 2, 1864. Laws of Oregon of 1864, p. 36.

25. On April 2, 1872, patents were issued to the Oregon Central Military Road Company.

26. On July 27, 1866 and November 26, 1867, officers of the Oregon Military Road Company certified to Governors of Oregon Gibbs and Warden that 92 1/2 miles of road had been built in accordance with the Act of Congress of July 2, 1864 and the Act of Oregon of October 24, 1864.

27. 402,240.67 acres were then granted to the Oregon Military ~~Road~~ Company, 111,385 acres of which were within the Klamath Reservation and had already been allotted to individual Indians.

28. The Oregon Military Road Company conveyed these lands to the California and Oregon Land Company in 1877.

29. By Act of March 2, 1889, Congress directed the United States Attorney General to bring suits against all persons having interest in lands granted to the State of Oregon under the Act of July 2, 1864 to determine whether the roads were granted in accordance with the terms of the granting acts and to obtain judgments declaring forfeiture of these lands to the United States. The Act preserved rights of bona fide purchasers for value.

30. Suit was brought by the United States Attorney General for forfeiture of lands conveyed to the California and Oregon Land Company.

31. After extensive litigation, it was determined that the California and Oregon Land Company took as bona fide purchaser for value from the Oregon Central Military Road Company and so was protected under the Act of March 2, 1889, 25 Stat. 850. *United States v. California and Oregon Land Co.*, 148 U.S. 31 (1893).

32. In a separate action, the United States Attorney General filed suit against the California and Oregon Land Company to recover lands within the Klamath Reservation on the grounds that the lands had already been reserved under the terms of the Act of July 2, 1864, 13 Stat. 355.

33. The action was ultimately dismissed by the United States Supreme Court. The Court held that the action was barred under the doctrine of *res judicata* as the issue could have been raised in the earlier litigation. *United States v. California and Oregon Land Co.*, 192 U.S. 355 (1904).

34. By Act of March 3, 1905, 33 Stat. 1033, Congress directed the Secretary of Interior to ascertain the value of the land held by C & O Land Company within the Klamath Reservation, the amount of those lands previously allotted to individual Indians, and for what price the C & O Land Company would convey the lands to the United States or on what terms the Company would exchange such lands for nonallotted lands within the boundaries of the reservation.

35. By Act of June 21, 1906, 34 Stat. 367, the Secretary of the Interior was directed to exchange the 111,385 acres of unallotted lands within the Klamath Reservation. (Exhibit G, *supra*)

36. On August 22, 1906, the C & O Land Company exchanged the 111,385 acres of allotted lands within the reservation for 87,000 acres of unallotted lands within the reservation. This exchange was made without compensation and without the knowledge or consent of the Tribe.

37. By Act of April 30, 1908, 35 Stat. 70, Congress appropriated $108,750.00 to compensate the Tribe for the 87,000 acres exchanged under the Act of June 21, 1906. The Act provided that the compensation would not be effective until the Indians "execute a release of any claims and demands . . .

for the land involved." No compensation was provided for abrogation of the Tribe's hunting, fishing and trapping rights.

38. On January 9, 1909, a release was executed by the Tribe which provided that the Tribe does "hereby relinquish any and all claims and demands of any kind and character which they now have or may hereafter have against the United States for the land involved." This release was held valid in *Klamath and Modoc Tribes v. United States*, 296 U.S. 244 (1935).

39. By Act of May 15, 1936, 49 Stat. 1276, Congress conferred jurisdiction on the Court of Claims to award compensation for the 87,000 acres taken under the Act of June 21, 1906 irrespective of the January 6, 1909 release given by the Tribe.

40. On June 7, 1937, the Court of Claims awarded the Klamath Tribe $5,313,347.32 against the United States as compensation for the 87,000 acres taken under the Act of June 21, 1906, *supra*.

41. The Court of Claims looked at the value of the timber on the land in arriving at its valuation of the land. The court did not include the value of the Tribe's hunting, fishing and trapping rights in its award. *Klamath and Modoc Tribes v. United States*, 85 Ct. Cl. 451 (1937). The Court of Claims' decision was upheld in *United States v. Klamath and Modoc Tribes*, 304 U.S. 119 (1938).

42. The parties are unaware of any instance where the State has enforced its game and fish laws and regulations on

the "C & O" lands. The parties are further unaware of whether the State has ever asserted jurisdiction in this area.

43. Hunting, fishing, gathering and trapping was crucial to the survival of the Klamath Indians at the time of the 1864 Treaty, the 1901 Agreement, and the 1906 Act of Congress (Exhibits I and K), and continues to this day to play a highly significant role in the lives of the Klamath Indians. *See Kimball v. Callahan*, 493 F.2d 564, 566 (9th Cir. 1974).

Date: Sept. 7, 1982

[Signatures omitted in printing]

LIST OF EXHIBITS TO STIPULATED FACTS

A. Treaty of October 4, 1864, 16 Stat. 707
B. Sen. Ex. Doc. No. 62, 53rd Cong. 2d Session (1895)
C. Sen. Ex. Doc. No. 129, 53rd Cong. 2d Session (1894)
D. Klamath Boundary Commission Report, Sen. Doc. No. 93, 54th Cong. 2d Session (1897)
E. House Doc. No. 156, 56th Cong., 2d Session (1900)
F. Sen. Rep. No. 198, 59th Cong., 1st Session (1906)
G. Act of June 21, 1906, 34 Stat. 367
H. *Klamath and Modoc Tribes v. United States*, 20 Ind. Cl. Comm. 522)1969) [*sic*]
I. Letter; Rev. Jesse Kirk to Commr. of Indian Affairs, March 7, 1902
J. Letter; Secretary of the Interior to Commr. of Indian Affairs, May 19, 1902
K. Letter; Walter Moyle, Esq. to Commr. of Indian Affairs, March 5, 1936
L. Letter; Commr. of Indian Affairs to Moyle, April 7, 1936

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

[Filed September 8, 1982]

[Title of case omitted in printing]

Pursuant to Rule 56, Federal Rules of Civil Procedure, Plaintiff respectfully moves this Court for entry of Summary Judgment in its favor declaring that the Tribe retains its Treaty rights to hunt, fish, trap and gather on the lands of the former Reservation which were the subject of the Act of June 21, 1906. There is no genuine issue as to any material fact and the Tribe is entitled to Summary Judgment as a matter of law, as set forth in the accompanying Memorandum of Support.

[Signature and certification omitted in printing]

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

[Filed September 9, 1982]

[Title of case omitted in printing]

Defendants respectfully move the court for summary judgment herein.

Said motion is based upon the parties [*sic*] stipulated facts on cross motions for summary judgment and upon the memorandum of law submitted herein.

[Signatures omitted in printing]

UNITED STATES DISTRICT COURT JUDGMENT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

[Filed January 25, 1983]

KLAMATH INDIAN TRIBE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 82-367-SO
	)	
THE OREGON DEPARTMENT OF FISH AND WILDLIFE, et al.,	)	JUDGMENT
	)	
	)	
Defendants.	)	
	)	

IT IS ORDERED that summary judgment in favor of the plaintiff is granted.

IT IS FURTHER ORDERED AND DECLARED that the Act of June 21, 1906, 34 Stat. 367 (the Act), did not abrogate the treaty rights of the Klamath Indian Tribe, plaintiff, to hunt, fish, trap and gather, free from regulation by the defendant State of Oregon, either on the lands exchanged by the Secretary of the Interior under the authority granted in the Act or on lands ceded by the Tribe under the June 17, 1901 agreement and ratified by the Act.

DATED this 25th day of January, 1983.

[Signature omitted in printing]